THE HONOURABLE Ms. JUSTICE G. ROHINI
AND

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.19636 OF 2002

Date: 04.09.2013

Between:

M/s. Sangitha Travel Agency

…Petitioner

And

The Regional Transport Officer
Regional Transport Authority (Central Zone)
Khairatabad
Hyderabad, and another

…Respondents

THE HONOURABLE Ms. JUSTICE G. ROHINI
AND
THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.19636 OF 2002

ORDER: (Per Hon'ble Ms. Justice G.Rohini)

It is represented by the learned counsel for the petitioner as well as the learned Government Pleader for Transport appearing for the respondents that the issue involved in this writ petition is squarely covered by the decision of the larger Bench of this Court in **L. Royal Reddy and Others Vs. Government of Andhra Pradesh and Others**[1] wherein it was held:

> 15. In our considered view neither Section 3 of the A.P. Motor Vehicles Taxation Act nor any other provisions of the said Act deal with cases relating to violation of conditions of permit. The Act nowhere provides that vehicle of a class or a category if used as a vehicle of other class or category can be subjected to

> higher tax, when such use is in contravention of the conditions of permit. It only refers to the class of vehicles as are defined under the Motor Vehicles Act and lays down that notification of the Government shall specify the class of vehicles on which the rates of tax shall be levied and the proviso says that rate of tax shall not exceed the maximum specified in Column (2) of the schedule. Charging section nowhere authorises levy of any additional tax whenever there is any violation of permit or conditions of permit. Unless the charging section authorises or permits levy of additional tax or charges, which is, a penalty the same cannot be treated as part of regulatory or compensatory tax. In case interpretation as is sought to be put forth on behalf of the respondents and as was put forth in the two Full Bench decisions in *Peda Venkaiah's* case and *Govindarajulu's* case is accepted, on the same reasons as are given in *M. Narasimhaiah's* case by the Supreme Court, the words "in respect of vehicles permitted to" used in item 4 of the First Schedule to the Taxation Act would become meaningless and ineffective. It has thus to be held that the two Full Benches of this Court which did not deal with the proviso to Section 3 of the Taxation Act, 1963, Rule 5 of the Taxation Rules and quoted words of item 4 of the First Schedule to Taxation Act are no longer good law in view of the ratio of the decision of the Supreme Court in *M. Narasimhaiah's* case. (emphasis supplied).

In the light of the ratio laid down in the above decision, the impugned demand cannot be sustained and accordingly it is hereby set aside.

However, it is represented by the learned counsel for the petitioner that in compliance with the interim order dated 09.10.2002 passed by this Court, the petitioner deposited 50% of the demanded amount. Hence, there shall be a direction to the respondents to refund the amounts that were paid by the petitioner within a period of eight weeks from the date of receipt of a copy of this order.

Accordingly, the Writ Petition is allowed. No costs.

Consequently, miscellaneous petitions, if any, pending in this Writ Petition, shall stand closed.

G.ROHINI, J

CHALLA KODANDA RAM, J

Date: 04.09.2013
Mva

[1] 2004 (2) ALD 225